IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.04.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE J.A.K. SAMPATHKUMAR

WRIT PETITION NOS.950, 1471 & 1472 OF 2006
and connected WPMPs.,

B. Anuradha Devi .. Petitioner in WP.950/2006

B. Karuppiah .. Petitioner in WP.1471/2006

T. Sathishkumar .. Petitioner in WP.1472/2006

vs.

1. The Pondicherry University
rep. by its Registrar
Kalapet, Pondicherry.

2. The Controller of Examinations
Pondicherry University
Kalapet, Pondicherry.

3. The Vinayaka Missions Medical
College, rep. by its Dean
Keezakasakdi Post
Karaikkal U.T., Pondicherry. .. Respondents in all Wps.,

Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration as stated therein.

For petitioners in : Mr. L. Chandrakumar
all the WPs.

For respondents : Mr. K. Srinivasan
R1 in all the WPs.

COMMON ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

By consent of both parties, the writ petitions themselves are taken up for final disposal.

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2. The prayer in the writ petitions are as follows.

W.P.No.950 of 2006:

"to issue a writ of declaration declaring that the petitioner has passed in the subject of Paediatrics in final year M.B.B.S., Examinations held in November, 2005 with Registration No.21617511 as per the MCI Regulations 1981 making her eligible to undergo Internship and become Registered Medical Practitioner. "

W.P.No.1471 of 2006:

"to issue a writ of declaration declaring that the petitioner has passed in the subject of Medicine in final year M.B.B.S., Examination held in May 2005 with Registration No.9617535 as per the MCI Regulations 1981 making him eligible to undergo Internship and become Registered Medical Practitioner. "

W.P.No.1472 of 2006:

"to issue a writ of declaration declaring that the petitioner has passed in the subject of Obstetrics and Gynaecology in final year M.B.B.S., Examinations held in November 2005 with Registration No.861072 as per the MCI Regulations 1981 making him eligible to undergo Internship and become Registered Medical practitioner. "

3. Heard the learned counsel for the petitioners as well as the learned counsel for respondents 1 and 2.

4. In the light of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the factual matrix as stated in the affidavit and counter affidavit in all the three cases. It is the claim of the petitioners that as per Medical Council of India Regulations, 1981, they secured pass marks in the respective subjects, i.e., in Paediatrics, Medicine, Obstetrics and Gynaecology. On the other hand, it is the claim of the University that the petitioners have not secured minimum pass marks in the above subjects as per the Pondicherry University Regulations, 1997.

5. The learned counsel appearing of the petitioners by drawing our attention to the order passed by one of us (P. Sathasivam,J.) in Writ Petition Nos.25492 and 25884 of 2003 dated 31.10.2003 (Salini Nari and another vs. Pondicherry University and others) would contend that the directions issued therein are

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applicable to them. He also contended that in spite of the said decision, the University has now issued fresh instructions.

6. The learned counsel appearing for the Pondicherry University, heavily relied on the decision of the First of Bench of this Court dated 04.01.2005 made in Writ Appeal Nos.771 and 772 of 2004 (Pondicherry University and others vs. Krishna Kabir and others). While disposing of the said writ appeals, the Hon'ble First Bench has passed the following order.

> "4. It has been held by the Supreme Court in State of Tamil Nadu vs. S.V. Bratheep (2004 (2) CTC 227) that the University can prescribe higher qualifications than that fixed by the All India Council for Technical Education. In view of the aforesaid decision we accept the contention of the learned counsel for the appellants that it was open for the Pondicherry University to fix a higher medical standard than those prescribed by the Medical Council of India. With this clarification both the writ appeals are disposed off. The writ petitioners will be registered by the Tamil Nadu Medical Council. "

It is clear from the above decision of the First Bench that it is open to the Pondicherry University to fix higher standard than those prescribed by the Medical Counsel of India.

7. Further, the learned counsel for the petitioners by drawing our attention to the Division Bench decision of this Court (P.Sathasivam and S.K. Krishnan,JJ.) dated 10.11.2005 made in W.P.Nos.557, 558 and 610 of 2004 (Bharat Guthikonda and others vs. The Pondicherry University and others) would submit that since the present petitioners have also joined the University along with the petitioners in those cases, completed the course and secured marks on par with those persons, the decision rendered / directions issued on 10.11.2005, is also applicable to the cases on hand. As against this, learned counsel appearing for the University contended that inasmuch as the present petitioners wrote examination in the subjects mentioned in their writ petitions subsequent to the orders of the Division Bench dated 04.01.2005 and 10.11.2005, undoubtedly, they have to follow the Regulations of Pondicherry University. While accepting the stand taken by the University and in view of the fact that the petitioners in these petitions have also joined and undergone courses along with batchmates numbering 25 (as per the learned counsel for the petitioner) as well as they secured pass

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marks as per Medical Council of India Regulations, similar directions as issued in W.P.Nos.557, 558 and 610 of 2004 dated 10.11.2005, may be issued in the case of the petitioners.

8. In the light of the said contention, we verified the order dated 10.11.2005. In the said decision, after referring various earlier orders of this Court (single Judge and Division Bench), granted permission to similarly placed persons and of the fact that those orders have been implemented by the University. Considering the assertion made by the learned counsel for the petitioners, viz., that all the petitioners belong to the same batch and they secured pass marks as per the Regulations of Medical Council of India, we intend to pass similar order as passed in W.P.Nos.557, 558 and 560 of 2004.

9. It is clarified that the University is free to verify whether the petitioners have secured pass marks as per the Medical Council of India Regulations, if it is so, the directions issued in WP.Nos.557,558 and 560 of 2004 dated 10.11.2005, are applicable to the petitioners in these writ petitions. It is made clear that we are constrained to pass orders in terms of the order dated 10.11.2005 only on the assertion that the persons who similarly placed have completed the course and secured pass marks as per Medical Council of India Regulations. This cannot be cited as a precedent for others and the University is free to implement their Regulation in respect of others who are not similarly placed.

With the above observations, these petitions are allowed. No costs. Consequently, connected WPMPs., are closed.

kh 03.04.2006

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Registrar
   Pondicherry University
   Kalapet, Pondicherry.

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2. The Controller of Examinations
   Pondicherry University
   Kalapet, Pondicherry.

3 ccs to Mr.L.Chandrakumar,Advocate, SR.16185

1 cc to Mr.K.Srinivasan, Advocate, SR.162-2

NA (CO)

dv/10.4.06

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